



Oklahoma Statutes Citationized

Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 16 - Hazardous Substances

Section 1-1601 - Definitions

Cite as: O.S. §. ____

For the purposes of this article:

(a) The term "hazardous substance" means:

(1) a. any substance or mixture of substances intended or suitable for household use which (1) is toxic, (2) is corrosive, (3) is an irritant, (4) is a strong sensitizer, (5) is flammable, or (6) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

b. any substances which the **State Board of Health** by regulation finds, pursuant to the provisions of Section 1602(a), meet the requirements of subparagraph 1.a. of this paragraph.

c. any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the Board determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this article in order to protect the public health.

(2) The term "hazardous substance" shall not apply (1) to economic poisons subject to the provisions of 2 O.S. 1961 Section 3-63; (2) to foods subject to the provisions of Article 11 of this Code; (3) to drugs and cosmetics subject to the provisions of Article 14 of this Code; (4) to substances intended for use as fuels when stored in containers and used in heating, cooking, or refrigeration system of a house.

(3) The term "hazardous substance" shall not include any source material, special nuclear material, or by-product material as defined in the Act of Congress known as the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(b) The term "toxic" shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(c) (1) The term "highly toxic" means any substance which falls within any of the following categories: a. produces death within fourteen (14) days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred (200) and three hundred (300) grams, at a single dose of fifty (50) milligrams or less per kilogram of body weight, when orally administered; or b. produces death within fourteen (14) days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred (200) and three hundred (300) grams, when inhaled continuously for a period of one (1) hour or less at an atmospheric concentration of two hundred (200) parts per million by volume or less of gas or vapor or two (2) milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or c. produces death within fourteen (14) days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred (200) milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for twenty-four (24) hours or less.

(2) If the Board finds that available data on human experience with any substance indicates results different from those obtained on animals in the above-named dosages or concentrations, the human data shall take precedence.

(d) The term "corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action; but shall not refer to action on inanimate surfaces.

(e) The term "irritant" means any substance not corrosive within the meaning of the preceding subparagraph which on immediate,

prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(f) The term "strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the Board. Before designating any substance as a strong sensitizer, the Board, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(g) The term "extremely flammable" shall apply to any substance which has a flash point at or below twenty degrees Fahrenheit (20F.) as determined by the Tagliabue Open Cup Tester, and the term "flammable" shall apply to any substance which has a flash point of above twenty degrees (20) to and including eighty (80) (80F.) degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester; except that the flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the Board to be generally applicable to such materials or containers, respectively, and established by regulations issued by the Board, which regulations shall also define the terms "flammable" and "extremely flammable" in accord with such methods.

(h) The term "radioactive substance" means a substance which emits ionizing radiation.

(i) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any substance; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears (1) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper, and (2) on all accompanying literature where there are directions for use, written or otherwise.

(j) The term "immediate container" does not include package liners.

(k) The term "misbranded package" or "misbranded package of a hazardous substance" means a hazardous substance in a container intended or suitable for household use which, except as otherwise provided by or pursuant to Section 1602, fails to bear a label:

(1) Which states conspicuously (a) the name and place of business of the manufacturer, packer, distributor, or seller; (b) the common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the Board by regulation permits or requires the use of a recognized generic name; (c) the signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic; (d) the signal word "WARNING" or "CAUTION" on all other hazardous substances; (e) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard; (f) precautionary measures describing the action to be followed or avoided, except when modified by regulation of the Board pursuant to Section 1602; (g) instruction, when necessary or appropriate, for first aid treatment; (h) the word "Poison" for any hazardous substance which is defined as "Highly Toxic" by subsection (c) (1); (i) instructions for handling and storage of packages which require special care in handling or storage; and (j) the statement "Keep out of the reach of children" or its practical equivalent, and

(2) On which any statements required under subparagraph (1) of this paragraph are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1601.

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 16 - Hazardous Substances

Section 1-1602 - Regulations - State Board of Health

Cite as: O.S. §. __ __

(a) Whenever in the judgment of the Board such action will promote the objectives of this article by avoiding or resolving uncertainty as to its application, the Board may by regulation declare to be a hazardous substance, for the purposes of this article, any substance or mixture of substances which it finds meets the requirements of subparagraph (1) a. of Section 1601(a).

(b) If the Board finds that the requirements of section 1601(k) (1) are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance, it may by regulation establish such reasonable variations or additional label requirements as it finds necessary for the protection of the public health and safety; and any container of such hazardous substance intended or suitable for household use which fails to bear a label in accordance with such regulations shall be deemed to be a misbranded package of a hazardous substance.

(c) If the Board finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this article is impracticable or is not necessary for the adequate protection of the public health and safety, the Board shall promulgate regulations exempting such substance from these requirements to the extent it determines to be consistent with adequate protection of the public health and safety.

(d) The Board may exempt from the requirements established by or pursuant to this Article any container of a hazardous substance with respect to which the Board finds that adequate requirements satisfying the purposes of this article have been established by or pursuant to any other state law.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1602.

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Title 63. Public Health and Safety

Chapter 1 - Oklahoma Public Health Code

Article Article 16 - Hazardous Substances

Section 1-1603 - Acts Prohibited

Cite as: O.S. §. __ __

The following acts and the causing thereof are hereby prohibited:

- (a) the introduction or delivery for introduction into commerce of any misbranded package of a hazardous substance.
- (b) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label of, or the doing of any other act with respect to, a hazardous substance, if such act is done while the substance is in commerce, or while the substance is held for sale (whether or not the first sale) after shipment in commerce, and results in the hazardous substance being in a misbranded package.
- (c) the receipt in commerce of any misbranded package of a hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.
- (d) the giving of a guarantee or undertaking referred to in Section 1604(b) (2) which guarantee or undertaking is false, except by a person who relied upon a guarantee or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance.
- (e) the failure to permit entry or inspection as authorized by Section 1609 or to permit access to and copying of any record as authorized by Section 1610.
- (f) the introduction or delivery for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug, or cosmetic container or in a container which, though not a reused container, is identifiable as a food, drug, or cosmetic container by its labeling or by other identification. The reuse of a food, drug, or cosmetic container as a container for a hazardous substance shall be deemed to be an act which results in the hazardous substance being in a misbranded package.
- (g) the use by any person to his own advantage, or revealing other than to the State **Commissioner of Health** or officers or employees of the **State Department of Health**, or to the courts when relevant in any judicial proceeding under this article, of any information acquired under authority of Section 1609 concerning any method of process which as a trade secret is entitled to protection.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1603.

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Article Article 16 - Hazardous Substances

Section 1-1604 - Violations - Penalties - Exemptions

Cite as: O.S. §. __ __

(a) Any person who violates any of the provisions of Section 1603 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than Five Hundred Dollars (\$500.00), or to imprisonment for not more than ninety (90) days, or both; but for offenses committed with intent to defraud or mislead, or for second and subsequent offenses, the penalty shall be imprisonment for not more than one year, or a fine of not more than Three Thousand Dollars (\$3,000.00), or both such imprisonment and fine.

(b) No person shall be subject to the penalties of subsection (a) of this section (1) for having violated Section 1603(c), if the receipt, delivery, or proffered delivery of the hazardous substance was made in good faith, unless he refuses to furnish, on request of an officer or employee duly designated by the State **Commissioner of Health**, the name and address of the person from whom he purchased or received such hazardous substance, and copies of all documents, if any there be, pertaining to the delivery of the hazardous substance to him; or (2) for having violated Section 1603(a), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the hazardous substance, to the effect that the hazardous substance is not in misbranded packages within the meaning of that term in this article; or (3) for having violated subsection (a) or (c) of Section 1603 in respect of any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but, if such hazardous substance is sold or offered for sale in domestic commerce, this clause shall not apply.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1604.

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Chapter 1 - Oklahoma Public Health Code

Article Article 16 - Hazardous Substances

Section 1-1605 - Embargo

Cite as: O.S. §. __ __

(a) Whenever a duly authorized agent of the State **Commissioner of Health** finds, or has probable cause to believe, that any hazardous substance is so misbranded as to be dangerous or fraudulent, within the meaning of this article, he shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court.

(b) When an article detained or embargoed has been found by such agent to be misbranded, he shall petition the district court in whose jurisdiction the article is detained or embargoed for condemnation of such article. When such agent has found that an article so detained or embargoed is not misbranded, he shall remove the tag or other marking.

(c) If the court finds that a detained or embargoed article is misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, that when the misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Commissioner that the article is no longer in violation of this article, and that the expenses of such supervision have been paid.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1605.

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Article Article 16 - Hazardous Substances

Section 1-1606 - Prosecutions for Violations

Cite as: O.S. §. __ __

It shall be the duty of each district attorney to whom the State **Commissioner of Health** reports any violation of this article to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this article is reported to any district attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Commissioner or his designated agent, either orally or in writing, in person, or by attorney, with regard to such contemplated proceeding.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1606.

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📄 Section 1-1607 - Injunction

Cite as: O.S. §. __ __

In addition to the remedies hereinafter provided, the Commissioner is hereby authorized to apply to the district court for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of Section 1603 of this article, irrespective of whether or not there exists an adequate remedy at law.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1607.

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📄 Section 1-1608 - Rules and Regulations

Cite as: O.S. §. __ __

The authority to promulgate reasonable rules and regulations for the efficient enforcement of this article is hereby vested in the State Board of Health, which is hereby authorized to make reasonable rules and regulations promulgated under this article conform, insofar as practicable, with those promulgated under the Federal Hazardous Substances Labeling Act.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1608.

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📄 Section 1-1609 - Right of Access - Inspections

Cite as: O.S. §. __ __

The State **Commissioner of Health** or his duly-authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which hazardous substances as defined in this article are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such product in commerce after notice to the owner or person in charge of such factory, warehouse, establishment, or vehicle, for the purpose:

- (1) of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this article are being violated, and
- (2) to secure samples or specimens of any product, after paying or offering to pay for such sample. The Commissioner shall make, or cause to be made, such examination as he deems necessary.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1609.

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Article 16 - Hazardous Substances

Section 1-1610 - Inspections of Records

Cite as: O.S. §. __ __

For the purpose of enforcing the provisions of this Article, carriers engaged in commerce, and persons receiving hazardous substances in commerce or holding such products so received, shall upon the request of an officer or employee duly designated by the State **Commissioner of Health** permit such officer or employee, at reasonable times, to have access to and to copy all records showing the movement in commerce of any hazardous substance or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of hazardous substance to which such request relates; provided, that evidence obtained under this section shall not be introduced in a criminal prosecution of the person from whom obtained.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1610.

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Article Article 16 - Hazardous Substances

Section 1-1611 - Publication of Reports and Information

Cite as: O.S. §. __ __

(a) The State Commissioner of Health may cause to be published, from time to time, reports summarizing all judgments, decrees, and court orders which have been rendered under this Article, including the nature of the charge and the disposition thereof.

(b) The Commissioner may also cause to be disseminated information regarding hazardous substances which, in the opinion of the Commissioner, involve imminent danger to health. Nothing in this section shall be construed to prohibit the Commissioner from collecting, reporting, and illustrating the results of the investigations of the Commissioner.

Historical Data

Laws 1963, SB 26, c. 325, art. 16, § 1611.

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